IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1218 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARATSINH SOMABHAI PANADA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1218 of 1992

MR RJ OZA for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-2

CORAM : MR.JUSTICE KSHITIJ R.VYAS

Date of decision: 26/06/2003

ORAL JUDGEMENT

1. The petitioner, in this petition, has challenged the action of the respondents authorities in not maintaining roster in filling the vacancies of Deputy

Mamlatdar by way of promotion in Bhavnagar District and in not considering the case of the petitioner on the roster point and thereby depriving the petitioner promotion to the post of Deputy Mamlatdar. The petitioner challenged the said action on the part of the respondents as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

2. The petitioner belongs to Bhil community. According to the petitioner, the said community is one of the recognised S.T. community. The petitioner was selected for the post of a Clerk by an order dated 21.4.1984 and was appointed to the said post in the Office of Mamlatdar, Gadhda. Further promotional avenue available to the petitioner was to the post of Dy.Mamlatdar. According to the petitioner, as per the prevailing rules, he appeared in Lower Revenue Qualifying Examination (LRQE) on 8th and 10th January 1990 and was declared successful in the first attempt. According to the petitioner, under the policy of the State Government, the respondents authorities are under obligation to maintain roster reservation in the matter of considering eligible candidates for promotion to the post of Deputy Mamlatdar. As averred by the petitioner in the petition, there being total 115 permanent sanctioned posts of Deputy Mamlatdar, it was obligatory upon the Collector, respondent no.2 to fill in the vacancies from amongst the eligible candidates belonging to the S.T.community by applying roster system. It is the grievance of the petitioner that even though the petitioner is eligible for being considered for promotion to the post of Deputy Mamlatdar in the quota of S.T. candidates and in view of the fact that the said quota was not maintained by respondent no.2 and even though there is a backlog in maintaining the quota of roster in ST, junior to the petitioner namely Mr. RR Garod was considered and promoted to the said post.Annexure B is the representation dated 16.5.1990 while annexure C is the reply dated 24.10.1990 to the representation of the petitioner by the Collector wherein it was pointed out that there was a backlog of ten vacancies in the promotional post of Deputy Mamlatdar and steps were taken by the respondent no.2 to fill in those ten vacancies by way of direct recruitment and the case of the petitioner would be considered as and when the new vacancy for S.T. candidate was available. The petitioner, by his representation dated 29.10.1990 addressed to the Under Secretary, Revenue Department, Sachivalaya, Gandhinagar pointed out that injustice was caused to him inasmuch as the Collector had utilised ten vacancies by appointing

direct recruits which was contrary to the provisions of law. The petitioner thereafter also made representations, but the respondents have not replied to any of the representations.

3. Even though the respondents are served, no reply affidavit is filed in the matter.

4. By passage of time, it is quite likely that the petitioner might have been promoted by this time. In case he is not promoted to the higher post, the respondents are required to consider the grievance voiced in the petition. In my opinion, if the petition is disposed of with the following directions, the same would serve the ends of justice and public time.

The respondent no.1 i.e. the Secretary, Revenue Department, Sachivalaya, Gandhinagar shall treat the petition itself as a representation of the petitioner and after hearing the petitioner, shall pass appropriate order within four weeks from the date of receipt of this order and communicate the said decision to the petitioner. The respondent no.1 shall undertake this exercise provided the petitioner is not promoted by this time.

Subject to the aforesaid directions, Rule is made absolute with no order asto costs.

(Kshitij R.Vyas,J.)

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